

HB 3122 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that employees of the
4 department of social and health services who provide child protective,
5 child welfare, and adult protective services are sometimes faced with
6 highly volatile, hostile, and/or threatening situations during the
7 course of performing their official duties. The legislature finds that
8 the work group convened by the department of social and health services
9 pursuant to chapter 389, Laws of 2005, has made various recommendations
10 regarding policies and protocols to address the safety of workers. The
11 legislature intends to implement the work group's recommendations for
12 statutory changes in recognition of the sometimes hazardous nature of
13 employment in child protective, child welfare, and adult protective
14 services.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.04 RCW
16 to read as follows:

17 (1) For purposes of this section only, "assault" means an
18 unauthorized touching of a child protective, child welfare, or adult
19 protective services worker employed by the department of social and
20 health services resulting in physical injury to the employee.

21 (2) In recognition of the hazardous nature of employment in child
22 protective, child welfare, and adult protective services, the
23 legislature hereby provides a supplementary program to reimburse
24 employees of the department, for some of their costs attributable to
25 their being the victims of assault while in the course of discharging
26 their assigned duties. This program shall be limited to the
27 reimbursement provided in this section.

28 (3) An employee is only entitled to receive the reimbursement

1 provided in this section if the secretary of social and health
2 services, or the secretary's designee, finds that each of the following
3 has occurred:

4 (a) A person has assaulted the employee while the employee was in
5 the course of performing his or her official duties and, as a result
6 thereof, the employee has sustained demonstrated physical injuries
7 which have required the employee to miss days of work;

8 (b) The assault cannot be attributable to any extent to the
9 employee's negligence, misconduct, or failure to comply with any rules
10 or conditions of employment; and

11 (c) The department of labor and industries has approved the
12 employee's workers' compensation application pursuant to chapter 51.32
13 RCW.

14 (4) The reimbursement authorized under this section shall be as
15 follows:

16 (a) The employee's accumulated sick leave days shall not be reduced
17 for the workdays missed;

18 (b) For each workday missed for which the employee is not eligible
19 to receive compensation under chapter 51.32 RCW, the employee shall
20 receive full pay; and

21 (c) In respect to workdays missed for which the employee will
22 receive or has received compensation under chapter 51.32 RCW, the
23 employee shall be reimbursed in an amount which, when added to that
24 compensation, will result in the employee receiving full pay for the
25 workdays missed.

26 (5) Reimbursement under this section may not last longer than three
27 hundred sixty-five consecutive days after the date of the injury.

28 (6) The employee shall not be entitled to the reimbursement
29 provided in subsection (4) of this section for any workday for which
30 the secretary, or the secretary's designee, finds that the employee has
31 not diligently pursued his or her compensation remedies under chapter
32 51.32 RCW.

33 (7) The reimbursement shall only be made for absences which the
34 secretary, or the secretary's designee, believes are justified.

35 (8) While the employee is receiving reimbursement under this
36 section, he or she shall continue to be classified as a state employee
37 and the reimbursement amount shall be considered as salary or wages.

1 (9) All reimbursement payments required to be made to employees
2 under this section shall be made by the department. The payments shall
3 be considered as a salary or wage expense and shall be paid by the
4 department in the same manner and from the same appropriations as other
5 salary and wage expenses of the department.

6 (10) Should the legislature revoke the reimbursement authorized
7 under this section or repeal this section, no affected employee is
8 entitled thereafter to receive the reimbursement as a matter of
9 contractual right.

10 **Sec. 3.** RCW 9A.46.110 and 2003 c 53 s 70 are each amended to read
11 as follows:

12 (1) A person commits the crime of stalking if, without lawful
13 authority and under circumstances not amounting to a felony attempt of
14 another crime:

15 (a) He or she intentionally and repeatedly harasses or repeatedly
16 follows another person; and

17 (b) The person being harassed or followed is placed in fear that
18 the stalker intends to injure the person, another person, or property
19 of the person or of another person. The feeling of fear must be one
20 that a reasonable person in the same situation would experience under
21 all the circumstances; and

22 (c) The stalker either:

23 (i) Intends to frighten, intimidate, or harass the person; or

24 (ii) Knows or reasonably should know that the person is afraid,
25 intimidated, or harassed even if the stalker did not intend to place
26 the person in fear or intimidate or harass the person.

27 (2)(a) It is not a defense to the crime of stalking under
28 subsection (1)(c)(i) of this section that the stalker was not given
29 actual notice that the person did not want the stalker to contact or
30 follow the person; and

31 (b) It is not a defense to the crime of stalking under subsection
32 (1)(c)(ii) of this section that the stalker did not intend to frighten,
33 intimidate, or harass the person.

34 (3) It shall be a defense to the crime of stalking that the
35 defendant is a licensed private investigator acting within the capacity
36 of his or her license as provided by chapter 18.165 RCW.

1 (4) Attempts to contact or follow the person after being given
2 actual notice that the person does not want to be contacted or followed
3 constitutes prima facie evidence that the stalker intends to intimidate
4 or harass the person. "Contact" includes, in addition to any other
5 form of contact or communication, the sending of an electronic
6 communication to the person.

7 (5)(a) Except as provided in (b) of this subsection, a person who
8 stalks another person is guilty of a gross misdemeanor.

9 (b) A person who stalks another is guilty of a class C felony if
10 any of the following applies: (i) The stalker has previously been
11 convicted in this state or any other state of any crime of harassment,
12 as defined in RCW 9A.46.060, of the same victim or members of the
13 victim's family or household or any person specifically named in a
14 protective order; (ii) the stalking violates any protective order
15 protecting the person being stalked; (iii) the stalker has previously
16 been convicted of a gross misdemeanor or felony stalking offense under
17 this section for stalking another person; (iv) the stalker was armed
18 with a deadly weapon, as defined in RCW 9.94A.602, while stalking the
19 person; (v) the stalker's victim is or was a law enforcement officer,
20 judge, juror, attorney, victim advocate, legislator, ~~((or))~~ community
21 correction's officer, or an employee of the child protective, child
22 welfare, or adult protective services division within the department of
23 social and health services, and the stalker stalked the victim to
24 retaliate against the victim for an act the victim performed during the
25 course of official duties or to influence the victim's performance of
26 official duties; or (vi) the stalker's victim is a current, former, or
27 prospective witness in an adjudicative proceeding, and the stalker
28 stalked the victim to retaliate against the victim as a result of the
29 victim's testimony or potential testimony.

30 (6) As used in this section:

31 (a) "Follows" means deliberately maintaining visual or physical
32 proximity to a specific person over a period of time. A finding that
33 the alleged stalker repeatedly and deliberately appears at the person's
34 home, school, place of employment, business, or any other location to
35 maintain visual or physical proximity to the person is sufficient to
36 find that the alleged stalker follows the person. It is not necessary
37 to establish that the alleged stalker follows the person while in
38 transit from one location to another.

1 (b) "Harasses" means unlawful harassment as defined in RCW
2 10.14.020.

3 (c) "Protective order" means any temporary or permanent court order
4 prohibiting or limiting violence against, harassment of, contact or
5 communication with, or physical proximity to another person.

6 (d) "Repeatedly" means on two or more separate occasions.

7 NEW SECTION. **Sec. 4.** The department of social and health services
8 shall report to the governor and the appropriate committees of the
9 legislature by December 1, 2006, on the implementation of those
10 recommendations contained in the department's October 2005 report
11 entitled child protective services - staff safety.

12 NEW SECTION. **Sec. 5.** Section 4 of this act expires January 1,
13 2007."

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14 On page 1, line 2 of the title, after "workers;" strike the
15 remainder of the title and insert "amending RCW 9A.46.110; adding a new
16 section to chapter 74.04 RCW; creating new sections; and providing an
17 expiration date."

EFFECT: Requires the department of social and health services to
report to the legislature by December 2, 2006, on the recommendations
contained in its report to the legislature on staff safety of child
protective service workers.

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